

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Ushio IWAMOTO et al.

Examiner: Underdahl

Appl'n. No. : 10/559,572
(National Stage of PCT/JP2004/008254)

Art Unit: 1651

I.A. Filed : June 7, 2004

For : WOUND-HEALING PROMOTING MATERIAL

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop AMENDMENT
Randolph Building
401 Dulany Street
Alexandria VA 22314

Sir:

This is in response to the requirement for restriction under 35 U.S.C. § 121 mailed from the U.S. Patent and Trademark Office on July 13, 2007. Inasmuch as the one-month shortened statutory period for reply is set in the Office Action to expire on August 13, 2007, this response is being filed by the initial due date for response. However, if any extension of time is necessary, this is an express request for any necessary extension of time and authorization to charge any required extension of time fee or any other fees which may be required to preserve the pendency of the present application to Deposit Account No. 19-0089.

RESTRICTION REQUIREMENT

The Examiner has required restriction under 35 U.S.C. §§ 121 and 372 to one of the following inventions:

- Group I Claim(s) 91-104, drawn to a wound healing plasma composition comprising a sheet like porous body having at least leukocytes on the surface and/or platelets;
- Group II Claim(s) 105-120, drawn to a method of preparing a wound-healing composition comprising a step of trapping leukocytes and/or platelets in a sheet-like porous body;
- Group III Claim(s) 121-130, drawn to a device for preparing a wound-healing promoting material with a sheet-like porous body;
- Group IV Claim(s) 131-136, are drawn to a method of treating a wound site with the composition of claim 91.

ELECTION WITH TRAVERSE

In order to be responsive to the requirement for restriction, Applicants elect, with traverse, the invention set forth in Group II, claims 105-120.

For the reasons set forth below, Applicants submit that the restriction requirement is improper, and should be withdrawn, whereby an action on the merits of all of the pending claims is warranted.

TRAVERSE

Notwithstanding the election of Group II in order to be responsive to the requirement for restriction, Applicants respectfully traverse the requirement.

The Examiner is reminded that in determining unity of invention, the criteria set forth in 37 C.F.R. 1.475 must be considered. Specifically, Applicants note that 37 C.F.R. 1.475 provides:

Unity of invention before the International Searching Authority, the International Preliminary Examining Authority, and during the national stage.

(a) An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
 - (2) A product and process of use of said product; or
 - (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
 - (4) A process and an apparatus or means specifically designed for carrying out the said process; or
 - (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.
- (c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.
- (d) If multiple products, processes of manufacture, or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).
- (e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Thus, in stating the restriction requirement, the requirement must state why unity of invention is lacking at least under 1.475(a).

In the instant situation, the restriction requirement does not make the required showing with respect to 37 C.F.R. 1.475. Instead, there is a mere assertion that the claimed invention is shown in U.S. Patent No. 5,510,102. However, no rejection is made, and aside from an offhand

reference to a broad swath of the cited document, no reason is provided why currently-claimed subject matter is allegedly disclosed or suggested by the document.

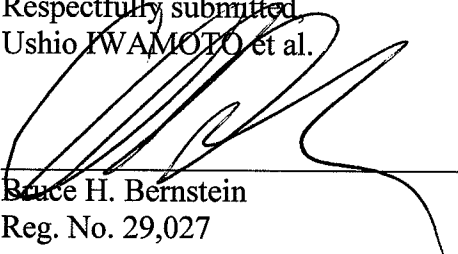
Therefore, the requirement should be withdrawn with respect to each of the groups of invention.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the requirement for restriction, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application. In the event that the requirement is maintained, the Examiner is requested to support the requirement based upon the claimed subject matter.

For the above reasons alone, the Restriction Requirement should be withdrawn, which action is respectfully requested.

Should there be any questions, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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